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HUMAN RIGHTS COMMITTEE
Forty-eighth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

EGYPT

1. The Committee considered the second periodic report of Egypt (CCPR/C/51/Add.71) at its 1244th to 1247th meetings, held on 19 and 20 July 1993, and adopted * the following comments:

A. Introduction

2. The Committee welcomes the report of Egypt and the willingness of the Government of the State party to continue the dialogue with the Committee reflected by the high level of the delegation. It regrets, however, that the report has been submitted four years behind schedule, that it has not been drawn up in accordance with its guidelines for the presentation of State party reports (CCPR/C/20/Rev.1) and that the information contained in the body of the report has not been organized following the sequence of the articles of the Covenant. While the report provides comprehensive information on the legislation of Egypt and has an Annex attached to it which contains a very useful comparative analysis of the legislation in respect of the provisions of the Covenant, it provides very little information on practice relating to the implementation of the Covenant and the actual enjoyment of human rights in Egypt or difficulties negatively affecting it. The Committee feels that further information, especially statistics, would have been particularly

* At its 1260th meeting (forty-eighth session), held on 29 July 1993

useful with regard to certain important issues such as the imposition of the death penalty, investigations of allegations of torture, the prosecution and actual punishment of the perpetrators of acts of torture, maltreatment and abuse of firearms. Statistics on the participation of women in the conduct of public affairs would also have been appreciated.

3. The Committee thanks the State party for the core document (HRI/CORE/1/Add.19) drawn up in accordance with the consolidated guidelines for the initial part of State party reports to be submitted under the various international human rights instruments (HRI/1991/1).

4. The Committee also pays tribute to the effort of the delegation of Egypt to provide information and explanations useful for a better understanding of the situation with regard to the implementation of the Covenant in the State party. The Committee takes note of the information on the status of the Covenant in Egyptian legislation even though certain clarifications are still needed with regard to the harmonization of domestic legislation with the Covenant, relating in particular to the state of emergency and certain provisions of the Covenant.

5. The delegation and the Permanent Mission of Egypt to the United Nations Office at Geneva informed the Committee about the content of the Presidential Decree of 9 December 1981 on the ratification by Egypt of the Covenant. The Committee regrets that it had no opportunity to discuss with the delegation the exact meaning of the Decree, which was belatedly brought to its attention.

B. Positive aspects

6. The Committee welcomes the renewed positive dialogue with the State party, which has helped the Committee to evaluate the situation in Egypt, including compatibility of domestic legislation with the provisions of the Covenant as well as factors and difficulties affecting the implementation of the Covenant in Egypt. The Committee acknowledges the State Party's firm commitment to the principles of the rule of law and democracy.

C. Factors and difficulties impeding the application of the Covenant

7. The Committee notes that the state of emergency in force in Egypt without interruption since 1981 constitutes one of the main difficulties impeding the full implementation of the Covenant by the State party. In June 1991, the state of emergency was extended until June 1994. In this connection, the Committee regrets that Egypt has not informed the other States parties to the Covenant, through the Secretary-General, of the provisions from which it has derogated and of the reasons by which it was actuated, as specifically required by article 4, paragraph 3, of the Covenant. The delegation, however, assured the Committee that this had happened quite inadvertently.

D. Principal subjects of concern

8. The Committee expresses concern at the many severe measures taken by the Egyptian Government to combat terrorism in the country. It is aware that the increasing number of terrorist acts especially in the last 12 months have created a dramatic situation in the country. However, recognizing that the

Government has a duty to combat terrorism, the Committee considers that the measures taken to do so should not prejudice the enjoyment of the fundamental rights enshrined in the Covenant, in particular, its articles 6,7 and 9. The Committee is particularly disturbed by the adoption in 1992 of law No. 97 on terrorism, which contains provisions contrary to articles 6 and 15 of the Covenant. The definition of terrorism contained in that law is so broad that it encompasses a wide range of acts of differing gravity. The Committee is of the opinion that the definition in question should be reviewed by the Egyptian authorities and stated much more precisely especially in view of the fact that it enlarges the number of offences which are punishable with the death penalty. The Committee underscores that according to article 6, paragraph 2 of the Covenant, only the most serious crimes may lead to the death penalty.

9. The Committee also expresses concern at the long duration of the state of emergency in Egypt. Moreover, under the Emergency Act, the President of the Republic is entitled to refer cases to the State security courts, to ratify judgments and to pardon. The President's role as both part of the executive and part of the judiciary system is noted with concern by the Committee, notwithstanding that in the matter of appeal it was explained that it would act only to reduce sentences. On the other hand, military courts should not have the faculty to try cases which do not refer to offences committed by members of the armed forces in the course of their duties.

10. In addition, concern is expressed by the Committee about the duration and conditions of police custody and administrative detention in Egypt which are likely to expose accused persons to torture and ill-treatment by the police and security forces, as demonstrated by numerous allegations reported by reliable non-governmental sources of information. In this connection, the Committee regrets that Egypt did not provide it with adequate information on investigations made and penalties applied to perpetrators of torture and on compensation and medical rehabilitation of victims of torture, though some additional information was given by the representative of the State party in his final remarks.

11. The Committee also expresses concern about the multitude of special courts in Egypt. From the point of view of legal consistency in the judicial procedure and procedural guarantees it is important that special courts exist as an exceptional measure, if at all.

12. Furthermore, the Committee is worried about restrictive legal provisions existing in Egypt with regard to freedom of thought, conscience, religion, assembly and association. Restrictions not in conformity with article 18 of the Covenant regarding various religious communities or sects, such as Baha'is, are a matter of particular concern. Equally, general concern is expressed by the Committee at the denial by the Egyptian authorities of the existence in the country of religious or other minorities as well as the existence in certain laws of provisions concerning penalties of imprisonment with compulsory labour for political offences. There are, in addition, many areas where the law discriminates against women and restricts them in the equal enjoyment of rights and freedoms.

E Suggestions and recommendations

13. The Committee recommends that the State party should examine carefully the comments and the observations it has made during the consideration of Egypt's second periodic report in order to consider and adopt legal and practical measures to ensure effective implementation of all the provisions of the Covenant. In addition, many questions and requests for information which have remained unanswered during the debate should find exhaustive replies in the next periodic report. The Committee also recommends that the Egyptian authorities should establish a closer and constructive dialogue with non-governmental organizations active in the field of human rights, and elaborate training programmes on human rights specifically addressed to public officials. The Committee recommends that the State party bring its legislation in conformity with the provisions of article 6 of the Covenant and, in particular, limit the number of crimes punishable by the death penalty. The Committee also recommends that the State party pay particular attention to the protection of the rights of those who are arrested and detained.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

BULGARIA

1. The Committee considered the second periodic report of Bulgaria (CCPR/C/32/Add.17) at its 1248th to 1250th meetings, held on 21 and 22 July 1993, and adopted* the following comments:

A. Introduction

2. The Committee expresses its appreciation to the State party for its report, which has been prepared in accordance with the Committee's guidelines, and for engaging through a highly qualified delegation in a fruitful dialogue with the Committee. It notes with satisfaction that the information provided by the representative of the State party in his introductory statement, as well as in his replies to the Committee's list of issues and oral questions raised by individual members, complemented the written report in a very constructive way and provided the Committee with a comprehensive view of Bulgaria's actual compliance with the obligations undertaken under the International Covenant on Civil and Political Rights. The Committee, however, draws the attention of the State party to the considerable delay in the submission of its second periodic report, which was due in 1984 and to the lack of information in the report on the period 1978-1990, when several regrettable measures are generally known to have been undertaken by the former regime violating provisions of the Covenant.

* At its 1259th meeting, held on 28 July 1993.

B. Positive aspects

3. The Committee notes with satisfaction the considerable progress made by the Government of Bulgaria since November 1989 in bringing gradually its national legislation, particularly its Constitution in conformity with the provisions of the Covenant and other international human rights treaties to which Bulgaria is a party. The recognition by Bulgaria of the competence of the Committee to receive and consider communications from individuals under the Optional Protocol is of particular importance for the effective implementation of the Covenant by the State party.

4. The Committee also notes with satisfaction that the 1991 Constitution of Bulgaria, in its second chapter entitled "Fundamental rights and obligations of citizens", follows the substance and framework of the Covenant. The Committee considers an independent judiciary essential for the proper protection of civil and political rights and welcomes the recent ruling of the Constitutional Court on human rights issues as proofs of an increased level of judicial protection of human rights in Bulgaria. Obviously the existence of an effective Constitutional Court promotes and expedites the eradication of anomalies from the former totalitarian period. The Committee welcomes in this context particularly the references the Court has made in several cases to provisions in the Covenant when examining the constitutionality of legal provisions.

5. The Committee considers that the laws enacted since November 1989, in particular, the Act on Political and Civil Rehabilitation of Persons Repressed During the Totalitarian Regime Because of their Origin, Political and Religious Persuasion, the Liability of State for Harm to Citizens Act, the Amnesty and Restoration of Confiscated Property Act, the Restoration of Property Rights over Nationalized Assets Act, the Act on Restoration of Property Rights over Certain Real Estate Procured by the State under the Territorial and Territorial Development Act, the Law on Restoration of Property Rights over Real Estate of Bulgarian Nationals who Applied for Travel to the Republic of Turkey and Other Countries Between May and September 1989, laid solid grounds for the development of a free and democratic society based on the rule of law. Legislation following thereafter has had further effects in that direction.

C. Factors and difficulties impeding the implementation of the Covenant

6. The Committee notes that remnants of the authoritarian rule cannot be easily overcome in a short period of time and that much remains to be done in consolidating and developing democratic institutions and strengthening the implementation of the Covenant. The Committee also recognizes that prejudices with various sectors of the population with respect to various sectors of the population, especially with regard to national or ethnic minorities and the inadequacy in the provision of human rights education and information, adversely affects the implementation of the Covenant. The lack of independent national institutions in Bulgaria that monitor the development and protection of human rights is under such circumstances a handicapping factor.

D. Principal subjects of concern

7. The Committee notes with concern that the Covenant's position in the legal system is not firmly established, that the Supreme Administrative Court provided for in article 125 of the Constitution, has not yet been set up, and that the powers of the prosecutors are excessively large at the expense of the courts. The fact that judicial review of administrative decisions is available exclusively through appeals to the Supreme Court may not provide the citizens with a remedy in compliance with article 2 of the Covenant. Similarly the Committee notes with concern that not all cases of torture that took place under the former regime have had redress and that the harassment of Bulgarian citizens of Turkish ethnic origin that took place under the former regime had lingering negative effects for citizens belonging to that group.

8. The Committee also expresses concern about the reported cases of excessive use of force by police officers, the prolonged periods of detention and wide range of grounds therefor. With respect to the latter, the Committee finds that current legislation does not fully conform with the provisions of article 9 of the Covenant. The Committee further expresses concern about the continuing exodus of Bulgarian citizens of Turkish ethnic origin as well as about the many disadvantages experienced by the Roma (Gypsy) minority. Restrictions on the formation of political parties appear to be excessive. Very little information was provided about the status of women and their participation in public life.

E. Suggestions and recommendations

9. The Committee recommends that remaining restrictions in national laws on human rights should be reviewed and brought into full conformity with the provisions of the Covenant as set forth in articles 18, 19 and 21. The national legislation on detention should be conformed with article 9 of the Covenant. In this connection, the excessive powers of the prosecutors should be reconsidered. Particular attention should be paid to the protection of the rights of persons belonging to national minorities in compliance with article 27 of the Covenant. In the latter regard, positive action should be taken by the Government. The Committee further suggests the establishment of an institution in order to monitor and strengthen the protection of human rights.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

IRAN (ISLAMIC REPUBLIC OF)

1. The Committee considered the second periodic report of the Islamic Republic of Iran (CCPR/C/28/Add.15) at its 1193rd to 1196th, 1230th to 1231st, and 1251st to 1253rd meetings, held on 29 and 30 October 1992, 7 April 1993 and 22 and 23 July 1993 and adopted 1/ the following comments:

A. Introduction

2. The Committee expresses appreciation to the State party for its report, which largely followed the Committee's guidelines regarding the form and contents of reports (CCPR/C/20/Rev.1) and which contained detailed information on some laws and regulations relating to the implementation of the provisions of the Covenant. However, the Committee notes that the report contained little reference to the implementation of the Covenant in practice and provided virtually no information about factors and difficulties impeding the application of the Covenant in the Islamic Republic of Iran.

3. The Committee regrets that, despite the State party delegations' efforts to respond to the numerous queries raised by members, the responses were not complete and the concerns of the Committee have not been adequately answered.

1/ At the 1260th meeting, held on 29 July 1993.

B. Positive aspects

4. The Committee takes satisfaction in the resumption of its dialogue with the Islamic Republic of Iran after a period of nearly ten years. However, difficulties in the dialogue made it necessary for the Committee to invite the Islamic Republic of Iran to three consecutive sessions and the Committee appreciates the readiness of the State party to do so. It regards the request for the Committee's assistance in the State party's endeavour to bring its domestic law and practice more into line with the provisions of the Covenant as a particularly important feature of the State party representative's concluding remarks.

5. The Committee notes with interest the establishment of a Human Rights Office within the Ministry for Foreign Affairs, the measures under consideration in the Islamic Republic of Iran to improve the status of women and the promise to reconsider the question of corporal punishments. It also notes that efforts have been undertaken to develop an awareness of human rights on the part of senior officials of ministries and administrations, including the promise that the comments of the Committee would be brought to their attention. The Committee also appreciates the fact that, at the time of the Gulf war, more than 1.5 million refugees were sheltered by the Islamic Republic of Iran.

C. Factors and difficulties impeding the application of the Covenant

6. In view of the lack of transparency and predictability in the application of Iranian domestic law, the Committee has found it somewhat difficult to determine the extent to which the latter was compatible with the provisions of the Covenant. It also notes that numerous, explicit or implicit, limitations or restrictions associated with the protection of religious values, as interpreted by Iranian authorities, have also seriously impeded the enjoyment of some human rights protected under the Covenant.

7. Furthermore, the Committee observes that the emergency measures adopted by the authorities during the war with a neighbouring country, and the parallel destruction of the country's economy, have undoubtedly had negative effects on the enjoyment of the rights and freedoms provided for under the Covenant.

D. Principal subjects of concern

8. The Committee deplores the extremely high number of death sentences that were pronounced and carried out in the Islamic Republic of Iran during the period under review, many of which resulting from trials in which the guarantees of due process of law had not been properly applied. In the light of the provision of article 6 of the Covenant, requiring States parties that have not abolished the death penalty to limit it to the most serious crimes, the Committee considers the imposition of that penalty for crimes of an economic nature, for corruption and for adultery, or for crimes that do not result in loss of life, as being contrary to the Covenant. The Committee also deplores that a number of executions have taken place in public.

9. The Committee also condemns the fact that a death sentence has been pronounced, without trial, in respect of a foreign writer, Mr. Salman Rushdie, for having produced a literary work and that general appeals have been made or condoned for its execution, even outside the territory of Iran. The fact that the sentence was the result of a fatwa issued by a religious authority does not exempt the State party from its obligation to ensure to all individuals the rights provided for under the Covenant, in particular its articles 6, 9, 14 and 19.

10. In addition, the Committee is concerned about the many cases of extrajudicial executions, disappearances, torture and ill-treatment of persons deprived of their liberty that have been brought to its attention and which are described, inter alia, in the last report of the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1993/41).

11. Furthermore, the Committee considers that the application of measures of punishment of extreme severity, such as flogging, lapidation and amputation, is not compatible with the provisions of article 7 of the Covenant. It also has serious questions about requiring repentance from detainees as a condition of their release from custody.

12. The Committee also deplores the lack of respect for due process of law, particularly before the Revolutionary courts, where trials in camera tend to be the rule and where apparently no real possibility is provided to the accused to prepare a defence. The lack of an independent Bar Association also has an adverse effect on the administration of justice, in the view of the Committee.

13. The Committee observes that the persistence and extent of discrimination against women is incompatible with the provisions of article 3 of the Covenant and refers, in particular, to the punishment and harassment of women who do not conform with a strict dress code; the need for women to obtain their husband's permission to leave home; their exclusion from the magistracy; discriminatory treatment in respect of the payment of compensation to the families of murder victims, depending on the victim's gender and in respect of the inheritance rights of women; prohibition against the practice of sports in public; and segregation from men in public transportation.

14. The Committee considers that legal provisions allowing for the possibility of banishing individuals, preventing them from residing in the place of their choice, or compelling them to reside in a given locality, are not compatible with article 12 of the Covenant.

15. Furthermore, the Committee is concerned at the extent of limitations to the freedom of expression, assembly and association, exemplified by articles 6 and 24 of the Constitution and article 16 of the Law Pertaining to Activities of Parties, Societies and Political and Professional Associations, noting in this connection that, contrary to the provisions of articles 18 and 19 of the Covenant, members of certain political parties who did not agree with what the authorities believe to be Islamic thinking or who expressed opinions in opposition to official positions have been discriminated against. Self-

censorship also seems to be widespread in the media and severe limitations appear to have been placed upon the exercise of freedom of assembly and of association.

16. Finally, the Committee wishes to express its concern at the extent of the limitations and restrictions on the freedom of religion and belief, noting that conversion from Islam is punishable and that even followers of the three recognized religions are facing serious difficulties in the enjoyment of their rights under article 18 of the Covenant. The Committee is particularly disturbed about the extent of discrimination against followers of non-recognized religions, notably the Baha'is, whose rights under the Covenant are subject to extremely severe restrictions. In the foregoing connection, the Committee received no satisfactory answer regarding the destruction of places of worship or cemeteries and the systematic persecution, harassment and discrimination of the Baha'is, which is in clear contradiction with the provisions of the Covenant.

E. Suggestions and recommendations

17. The Committee recommends that the comments it had made in connection with the consideration of the second periodic report of the Islamic Republic of Iran should be studied by the authorities with a view to adopting necessary legal and practical measures to ensure the effective implementation of all the provisions of the Covenant. The Committee wishes, in particular, to emphasize the following suggestions and recommendations:

18. The Committee recommends that domestic laws should be revised with a view to curtailing the number of offences currently punishable by the death penalty and to reducing the number of executions. Public executions should be avoided and the accused should, in all cases, be provided with all necessary guarantees, including the right to a fair trial as provided for under article 14 of the Covenant.

19. Effective measures should be adopted to ensure the strictest observance of articles 7 and 10 of the Covenant. All complaints of extrajudicial executions, disappearances, torture and ill-treatment should be duly investigated, the culprits should be punished and measures should be taken to prevent any recurrence of such acts. Severe forms of punishment incompatible with the Covenant should be removed from law and practice and the conditions of detention of persons deprived of their liberty should be improved. The Committee also recommends that training courses should be organized for members of the police, the armed forces and the security forces as well as for other law enforcement officials, so as to better acquaint them with basic human rights principles and norms.

20. The Committee recommends that Iranian legislation and practice be brought into line with the provisions of articles 9 and 14 of the Covenant, which provide that all persons should have the right to a fair trial, including the assistance of counsel, the right to be brought promptly before a judge and the right to be tried in public. Urgent consideration should also be given to the abolition of the Revolutionary courts.

21. The Committee recommends that active measures should be taken to enhance the status of women in the Islamic Republic of Iran in accordance with articles 2, 3 and 23 of the Covenant and to guarantee their equal enjoyment of rights and freedoms.

22. The Committee recommends that its recently adopted General comment No.22 (48) be studied by the authorities to bring its legislation and practice into line with the requirements of article 18 of the Covenant. In that regard, the Committee wishes to emphasize that recognition of a religion as a State religion should not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against adherents of other religions or non-believers, since the right to freedom of religion and belief and the prohibition of discrimination do not depend on the recognition as an official religion or belief. Measures restricting eligibility for government service to members of the predominant religion, or giving economic privileges to such persons, or imposing special restrictions on the practice of other faiths, are incompatible with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under article 26.

23. The Committee also wishes to invite the Government of the Islamic Republic of Iran to undertake necessary steps to ensure that the rights enunciated in articles 17, 19, 21, 22 and 25 can be exercised without any limitations or restrictions other than those provided for in the Covenant.